

**UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF WISCONSIN**

IN RE
Roger Peter Rinaldi

Chapter: 7

Debtor.

Case No. 11-35689-svk

**MOTION OF HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE
FOR RELIEF FROM THE AUTOMATIC STAY AND ABANDONMENT**

HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, the current mortgagee of record, its successors, servicing agents and/or assignees (hereinafter collectively and at all times material hereto "the movant"), through its attorneys, Gray & Associates, L.L.P., hereby moves the court for an order for relief from the automatic stay and abandonment pursuant to sections 362(d) and 554(b) of the Bankruptcy Code and alleges as follows:

1. The movant holds a promissory note and mortgage encumbering real property owned by the debtor(s) and located at 22311 121st St, Bristol, WI 53104-9310. A copy of the mortgage and note are attached hereto and their contents are incorporated herein by reference.
2. That the mortgage loan for which the movant has a secured interest is in default for all payments coming due on and after May 1, 2011 and, unless cured, said default will result in the subject property being sold at a foreclosure sale.
3. That the default in payments constitutes "cause" for terminating the automatic stay under section 362(d)(1) of the Bankruptcy Code.
4. That failure to make the monthly payments has resulted in the loss of adequate protection

Drafted by:
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Gray & Associates, L.L.P. is attempting to collect a debt and any information obtained will be used for that purpose. If you have previously received a discharge in a chapter 7 bankruptcy case, this communication should not be construed as an attempt to hold you personally liable for the debt.

of the movant's interest in the encumbered property, thereby entitling the movant to relief from the automatic stay under section 362(d)(1) of the Bankruptcy Code.

5. That the estimated fair market value of the property according to the local assessor's office is \$129,200.00.

6. That the property's value is computed as follows:

Estimated fair market value	\$129,200.00
LESS: forced sale discount (20%)	(\$25,840.00)
Value at foreclosure sale	<u>\$103,360.00</u>

7. That the amounts due and to become due on the note and mortgage are as follows:

Principal	\$200,124.33
Interest to date:	\$2,368.59
Estimated attorneys' fees and costs:	\$2,000.00
Amount due at foreclosure sale	<u>\$204,492.92</u>

8. That there is no equity in the property over and above the liens of the secured creditors, the exemptions claimed by the debtor(s), unpaid real estate taxes and other liens of record. The lack of equity in the property, which is unnecessary for an effective reorganization, entitles the movant to relief from the automatic stay under section 362(d)(2) of the Bankruptcy Code.

9. The allegations of the foregoing paragraphs indicate that the property is burdensome and of inconsequential value and benefit to the bankruptcy estate. The trustee should be ordered to abandon the estate's interest, if any, in the property pursuant to section 554(b) of the Bankruptcy Code, while reserving the estate's interest in any surplus funds which might exist if the property is sold and the movant has been paid in full.

10. That the movant's legal fees and costs associated with this motion are \$700.00.

WHEREFORE, the movant requests that the automatic stay as it pertains to the debtor(s), the

estate and the property be terminated pursuant to section 362(d) of the Bankruptcy Code so that the movant may protect, exercise and enforce its rights pursuant to said note and mortgage, effective upon the trustee's abandonment of the property, the filing of a no asset report or the entry of an order confirming the sale of the property in any state court foreclosure action, while reserving the estate's interest in any surplus funds which might exist after the movant has been paid in full, that the movant's legal fees and costs associated with this motion be approved, that any order entered pursuant to this motion be effective immediately upon its entry and for such further relief as may be just and equitable.

Dated this 3rd day of November, 2011.

Gray & Associates, L.L.P.
Attorneys for Movant

By: _____/s/_____
Jay Pitner
State Bar No. 1010692

UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

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**NOTICE OF MOTION OF HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE
FOR RELIEF FROM THE AUTOMATIC STAY AND ABANDONMENT**

HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, the current mortgagee of record, its successors, servicing agents and/or assignees (hereinafter collectively and at all times material hereto "the movant"), has filed papers with the court for an order for relief from the automatic stay and abandonment.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, **within fourteen (14) days of the date of this notice**, you or your attorney must do the following:

File with the court a written objection to the motion and a request for a hearing with:

Clerk, U.S. Bankruptcy Court
U.S. Courthouse
517 E. Wisconsin Avenue, Room 126
Milwaukee, WI 53202-4500

If you mail your request and objection to the court for filing, you must mail it early enough so the court receives it within 14 days of the date of this notice.

Drafted by:

Jay Pitner
Gray & Associates, L.L.P.
16345 West Glendale Drive
New Berlin, WI 53151-2841
Phone: (414) 224-8404
Fax: (414) 224-1279
Email: jpitner@gray-law.com

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You must also mail copies of the written objection and request for a hearing to:

Jay Pitner
Gray & Associates, L.L.P.
16345 West Glendale Drive
New Berlin, WI 53151-2841

Michael F. Dubis
Chapter 7 Trustee
208 East Main Street
Waterford, WI 53185

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated this 3rd day of November, 2011.

Gray & Associates, L.L.P.
Attorneys for Movant

By: _____/s/_____
Jay Pitner
State Bar No. 1010692

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AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
)ss
WAUKESHA COUNTY)

Claudia Socha-Antillon, being first duly sworn on oath deposes and says that I am an employee of the firm of Gray & Associates, L.L.P., attorneys for movant identified herein, and that on the 4th day of November, 2011, I electronically filed the annexed notice of motion and motion for an order for relief from the automatic stay and abandonment and that copies of these documents were mailed, properly enclosed in a postage paid envelope, or served electronically if the party accepts electronic service, to the following:

See Attached List

_____/s/
Claudia Socha-Antillon

Subscribed and sworn to before me
this 4th day of November, 2011.

_____/s/

Michelle M. Neil, Notary Public
State of Wisconsin
My commission expires: 09/22/2013.